

SENATE BILL REPORT

SB 5509

As Reported By Senate Committee On:
Health & Long-Term Care, February 22, 2007
Ways & Means, March 5, 2007

Title: An act relating to disciplinary actions for health care providers regulated under chapter 18.130 RCW.

Brief Description: Concerning disciplinary actions for health care providers regulated under chapter 18.130 RCW.

Sponsors: Senators Kastama, Pflug, Kohl-Welles, Keiser, Parlette, Carrell, Regala and Franklin.

Brief History:

Committee Activity: Health & Long-Term Care: 2/05/07, 2/22/07 [DPS-WM].
Ways & Means: 2/28/07, 3/5/07 [DP2S].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 5509 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug, Ranking Minority Member; Carrell, Fairley, Kastama, Kohl-Welles, Marr and Parlette.

Staff: Edith Rice (786-7444)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5509 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Prentice, Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Fairley, Hatfield, Hewitt, Hobbs, Honeyford, Keiser, Kohl-Welles, Oemig, Parlette, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Tom.

Staff: Elaine Deschamps (786-7441)

Background: Under the Uniform Disciplinary Act for the Regulation of Health Professionals (UDA), a written complaint against a health professional may be submitted to the disciplinary authority charging a license holder with unprofessional conduct. The grounds for such a report may be specified. There is no current requirement that such a report be signed by the

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

complainant. Advocates have expressed concerns that this allows competitors to harass health practitioners for whom there is no valid complaint.

The disciplinary authority is to determine if an investigation is warranted. A complaint filed in good faith is immune from suit in a civil action related to the filing of the complaint.

Summary of Bill: A complainant must sign the written complaint submitted to the disciplinary authority. The disciplinary authority must determine that there is probable cause to merit an investigation for each complaint. In the event that an investigation is warranted, the disciplinary authority is required to consult with a practitioner who utilizes the procedure in question in the complaint to determine whether the subject of the complaint is guilty of unprofessional conduct. In the event that any proof of harm to a patient is not presented and the complaint is based solely on the use of a procedure, the complaint must not be in good faith. The burden of proof for the disciplinary authority is clear, cogent, and convincing evidence. False advertising is defined.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Health & Long-Term Care): In conducting an investigation, the disciplinary authority is not required to consult with a practitioner who uses the procedure in question, but may do so. When the practitioner who used the procedure that is the subject of the complaint is not available, a practitioner of complementary alternative medicine may be used instead. Reference to the burden of proof is removed.

EFFECT OF CHANGES MADE BY RECOMMENDED SECOND SUBSTITUTE AS PASSED COMMITTEE (Ways & Means): Allows the complainant's guardian or legal representative to sign with his or her permission or when acting on his or her behalf.

Appropriation: None.

Fiscal Note: Available on original. Substitute requested on February 24, 2007.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony (Health & Long-Term Care): PRO: This bill would preclude investigation if there is no harm or complaint of harm to a patient. Forty percent of our practitioners are being investigated when there has been no harm or complaint of harm to a patient. This is really a turf war, its clear that we are being targeted. Alternative medicine practitioners are really helping people, in particular those who are dealing with autism.

CON: We are concerned about patient safety if we can only take action if actual harm has occurred. Requiring a signature could impede the reporting process.

OTHER: We are concerned about possible retaliation. It may be impossible to find others who use the same procedure. Terminal patients may try anything.

Persons Testifying (Health & Long-Term Care): PRO: Martin J. Durkin, Health Freedom Foundation; Dr. Jonathan Wright, Tacoma Clinic; Dr. Bradford Weeks, Tami Giles, Denise Rohrbeck-Fulton, Autism Research Institute.

CON: Laurie Jenkins, Assistant Secretary Department of Health; Tim Layton, Washington State Medical Association.

OTHER: Timothy Sears, Washington State Nurses Association.

Staff Summary of Public Testimony (Ways & Means): PRO: This bill intends to end the use of frivolous complaints against doctors. There has been a rash of anonymous complaints, which become costly for both the department and practitioners to defend themselves. The bill was amended to address cost concerns by the Department of Health, and we will continue to work with them on their concerns.

Persons Testifying (Ways & Means): PRO: Martin Durkan, Health Freedom Foundation.